



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,065	11/17/2003	Carlos Alberto Mota	2003B122	7031
23455	7590	09/30/2005	EXAMINER	
EXXONMOBIL CHEMICAL COMPANY 5200 BAYWAY DRIVE P.O. BOX 2149 BAYTOWN, TX 77522-2149			RABAGO, ROBERTO	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,065

Applicant(s)

MOTA, CARLOS ALBERTO

Examiner

Roberto Rábago

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/2003, 5/18/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Prior rejections under 35 USC 112(2) are withdrawn in view of amendment.

Specification

2. The amendment to the specification at paragraphs numbered as [0016] and [0028] is objected as failing to comply with 37 CFR 1.121(b)(1)(i) which requires unambiguous identification of a replacement paragraph. Paragraph numbers [0016] and [0028] do not exist in the specification as filed; therefore, the point of replacement cannot be determined, and these two paragraphs have not been entered. Applicant is required to cancel the insertion of paragraphs [0016] and [0028], or to identify where these paragraph numbers may be found. Applicants are advised that argument asserting that the paragraph numbers should be changed to different paragraph numbers will not be deemed responsive unless accompanied by cancellation of the prior requested insertion of paragraphs [0016] and [0028] and presentation of new replacement paragraphs with correct paragraph number identification.

Claim Rejections - 35 USC § 112

3. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1713

(a) Claims 1-22 are indefinite because the intended scope of the following parameters limited by the word "about" cannot be determined: claims 1, 4, 11 and 14 (density); claims 3 and 13, (MI); claims 5 and 15 (MFR); claims 7 and 17 (Mz/Mw). Claims dependent on the aforementioned claims are also indefinite by dependency. The relative modifier "about" is accepted as a means to provide some flexibility about a specific value provided the meaning and scope is clear. However, in the aforementioned claims, the range without the word "about" is already so narrow that the intended flexibility about the stated end points cannot be determined. In one of the most extreme examples from the rejected claims, claim 4 requires a density of "about 0.917 to about 0.919." It cannot be determined whether the intended variability is in the second, third, or fourth decimal place. For example, by merely changing the third decimal by 0.001, the size of the claimed range potentially doubles; by changing the second decimal by 0.01, the size of the range potentially increases tenfold. Given the exceedingly narrow range of values claimed in the absence of the word "about," the scope of the claimed ranges cannot be determined when arbitrary changes to the stated endpoints result in enormous differences in the size of the ranges.

(b) In claims 21 and 22, it cannot be determined whether the food alone is subjected to repeated freeze/thaw cycles, or whether the item subjected to repeated freeze/thaw cycles includes food inside of a container which includes a lid.

Claim Rejections - 35 USC § 103

Art Unit: 1713

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over ExxonMobil LLM-103 resin, stated by applicants to be commercially available at the time the invention was filed (see EXAMPLE at pg. 6 of the specification).

The polymer material is stated to meet all of the requirements of the invention as set forth in the summary of the invention (see specification at page 6, last paragraph). One of ordinary skill in the art would be motivated to use LLM-103 for the injection molding of articles because such use was conventional at the time the instant invention was made. As evidenced by the following documents, the use of LLDPE ethylene/hexene copolymer of the general type required in the claims was commonly used for the injection molding of articles, including the making of containers for food and freezer use. These references are not relied upon in combination with the primary reference material; rather, they are cited to support the position that ordinary knowledge of the art provides sufficient motivation to make injection molded articles from commercially available LLDPE ethylene/hexene copolymer.

US 6,552,138 (col. 1-3, 6, Examples 1-2)

WO-01/96419 (pp. 1-7)

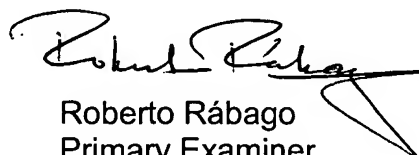
Art Unit: 1713

ExxonMobil Internet postings "Polyethylene Applications Overview" (2002) and
"Linear Low Density Polyethylene Injection Molding Grades" (2003) at
[www. exxonmobilpe.com/Public_Products/Polyethylene](http://www.exxonmobilpe.com/Public_Products/Polyethylene)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roberto Rábago
Primary Examiner
Art Unit 1713

RR
September 13, 2005